

U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:21-cv-05784-RPK-RML

Wareka v. Shutterstock, Inc. et al
Assigned to: Judge Rachel P. Kovner
Referred to: Magistrate Judge Robert M. Levy
Cause: 17:101 Copyright Infringement

Date Filed: 10/15/2021
Date Terminated: 05/19/2022
Jury Demand: Plaintiff
Nature of Suit: 820 Copyright
Jurisdiction: Federal Question

Plaintiff

Tamara Wareka
also known as
Tamara Williams

represented by **Rayminh Ngo**
Nao Law Practice
715 East 3900 South
Suite 209
Salt Lake City, UT 84107
801-268-2982
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ATTORNEY TO BE NOTICED

V.

Defendant

Shutterstock, Inc.

represented by **Eleanor Martine Lackman**
Mitchell Silberberg & Knupp LLP
437 Madison Avenue
25th Floor
New York, NY 10022
212-509-3900
Email: eml@msk.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

DOES 1-10, inclusive

Date Filed	#	Docket Text
10/15/2021	<u>1</u>	COMPLAINT against DOES 1-10, inclusive, SHUTTERSTOCK, INC. filing fee \$ 402, receipt number ANYEDC-14939668 Was the Disclosure Statement on Civil Cover Sheet completed -NO,, filed by TAMARA WAREKA a/k/a TAMARA WILLIAMS. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Civil Cover Sheet, # <u>3</u> Proposed Summons) (Ngo, Rayminh) (Entered: 10/15/2021)
10/15/2021	<u>2</u>	Corporate Disclosure Statement by TAMARA WAREKA a/k/a TAMARA WILLIAMS (Ngo, Rayminh) (Entered: 10/15/2021)
10/18/2021	<u>1</u>	Case Assigned to Judge Rachel P. Kovner and Magistrate Judge Robert M. Levy. Please download and review the Individual Practices of the assigned Judges, located on our website . Attorneys are

responsible for providing courtesy copies to judges where their Individual Practices require such. (Davis, Kimberly) (Entered: 10/18/2021)

10/18/2021	<u>I 3</u>	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that <i>if</i> all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Davis, Kimberly) (Entered: 10/18/2021)
10/18/2021	<u>I 4</u>	This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Davis, Kimberly) (Entered: 10/18/2021)
10/18/2021	<u>I 5</u>	Summons Issued as to Shutterstock, Inc.. (Davis, Kimberly) (Entered: 10/18/2021)
10/21/2021	<u>I 6</u>	Notice of Report on the Filing or Determination of an Action or appeal Regarding a Copyright. (Attachments: # <u>1</u> complaint) (Rocco, Christine) (Entered: 10/21/2021)
11/04/2021	<u>I 7</u>	SUMMONS Returned Executed by Tamara Wareka. Shutterstock, Inc. served on 10/22/2021, answer due 11/12/2021. (Ngo, Rayminh) (Entered: 11/04/2021)
11/12/2021	<u>I 8</u>	NOTICE of Appearance by Eleanor Martine Lackman on behalf of Shutterstock, Inc. (aty to be noticed) (Lackman, Eleanor) (Entered: 11/12/2021)
11/12/2021	<u>I 9</u>	Letter MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by Shutterstock, Inc.. (Lackman, Eleanor) (Entered: 11/12/2021)
11/12/2021	<u>I</u>	ORDER granting <u>2</u> Motion for Extension of Time to Answer. Defendant Shutterstock, Inc. shall answer, move, or otherwise respond to the Complaint on or before 12/13/2021. Ordered by Magistrate Judge Robert M. Levy on 11/12/2021. (Ramirez, Alexia) (Entered: 11/12/2021)
12/13/2021	<u>I 10</u>	Corporate Disclosure Statement by Shutterstock, Inc. (Lackman, Eleanor) (Entered: 12/13/2021)
12/13/2021	<u>I 11</u>	ANSWER to <u>1</u> Complaint, by Shutterstock, Inc.. (Lackman, Eleanor) (Entered: 12/13/2021)
12/13/2021	<u>I 12</u>	ORDER: An initial conference by telephone has been scheduled for February 10, 2022 at 2:30 p.m., before the Honorable Robert M. Levy, United States Magistrate Judge at (888) 684-8852; Access Code #: 6223489. All counsel must be available. Plaintiff's counsel is directed to confirm with defendants' counsel that all necessary participants are aware of this conference. Ordered by Magistrate Judge Robert M. Levy on 12/13/2021. (Attachments: # <u>1</u> IC Questionnaire, # <u>2</u> Individual Rules) (Marino, Janine) (Entered: 12/13/2021)
12/22/2021	<u>I 13</u>	Letter MOTION for pre motion conference by Shutterstock, Inc.. (Lackman, Eleanor) (Entered: 12/22/2021)
01/03/2022	<u>I 14</u>	RESPONSE to Motion re <u>13</u> Letter MOTION for pre motion conference filed by Tamara Wareka. (Ngo, Rayminh) (Entered: 01/03/2022)
01/04/2022	<u>I</u>	ORDER: On the parties' request, defendant's request for a premotion conference is deemed defendant's motion for a change of venue. Plaintiff's basis for venue in this district appears to be that defendant maintains a website that is accessible to customers in this district, and that defendant is therefore subject to personal jurisdiction and resides in this district. Pl.'s Resp. at 1-2 (Dkt. #14). But courts have found that "[t]he mere creation of a website containing product information viewable by persons within a forum does not establish personal jurisdiction." <i>See, e.g., Cernansky v. Lefebvre</i> , 88 F. Supp. 3d 299, 309 (D. Vt. 2015). Plaintiff is directed to file a letter not exceeding 5

pages explaining the basis for venue in this district in light of that line of authority by 1/18/2022. Defendant shall file a response not exceeding 3 pages by 1/25/2022. Ordered by Judge Rachel P. Kovner on 1/4/2022. (Bell, Jason) (Entered: 01/04/2022)

01/18/2022	<u>I 15</u>	RESPONSE to Motion re <u>13</u> Letter MOTION for pre motion conference filed by Tamara Wareka. (Attachments: # <u>1</u> Exhibit True and accurate screen capture of website content from Shutterstocks Website, at: https://submit.shutterstock.com/ (last accessed Jan. 18, 2022), # <u>2</u> Exhibit True and accurate screen capture of website content from Shutterstocks Website, at: https://www.shutterstock.com/pricing (last accessed Jan. 18, 2022), # <u>3</u> Exhibit NY Dept. of State, Div. of Corporations, Public Entity Information, for Shutterstock, available at: www.https://apps.dos.ny.gov/publicInquiry/ (last accessed Jan. 18, 2022), # <u>4</u> Exhibit True and accurate screen capture of website content from Shutterstocks Website, at: https://www.shutterstock.com/explore/affiliates (last accessed Jan. 18, 2022)) (Ngo, Rayminh) (Entered: 01/18/2022)
01/25/2022	<u>I 16</u>	REPLY in Support re <u>13</u> Letter MOTION for pre motion conference <i>and Response to Plaintiff's Letters dated January 3 and 18, 2022</i> filed by Shutterstock, Inc.. (Lackman, Eleanor) (Entered: 01/25/2022)
01/26/2022	<u>I 17</u>	MOTION to Adjourn Conference by Tamara Wareka. (Ngo, Rayminh) (Entered: 01/26/2022)
01/26/2022	<u>I</u>	ORDER granting <u>17</u> Motion to Adjourn Conference. The initial telephone conference set for 2/10/22 is adjourned to 3/29/2022 at 02:00 PM before Magistrate Judge Robert M. Levy. Parties are directed to call (888) 684-8852; Access Code #: 6223489. Ordered by Magistrate Judge Robert M. Levy on 1/26/2022. (Marino, Janine) (Entered: 01/26/2022)
03/15/2022	<u>I 18</u>	MOTION to Adjourn Conference by Tamara Wareka. (Ngo, Rayminh) (Entered: 03/15/2022)
03/16/2022	<u>I</u>	ORDER granting <u>18</u> Motion to Adjourn Conference. The initial conference scheduled for 3/29/22 is adjourned to 5/31/2022 at 04:30 PM before Magistrate Judge Robert M. Levy. Parties are directed to call 888-684-8852 and use access code # 6223489. Ordered by Magistrate Judge Robert M. Levy on 3/16/2022. (Marino, Janine) (Entered: 03/16/2022)
05/04/2022	<u>I</u>	SCHEDULING ORDER: A telephonic conference on defendant's motion for change of venue is scheduled for 5/11/2022 at 4:00 p.m. The parties are directed to call (888) 278-0296 and enter the access code 2012636 to join the conference. Ordered by Judge Rachel P. Kovner on 5/4/2022. (Bell, Jason) (Entered: 05/04/2022)
05/06/2022	<u>I</u>	SCHEDULING ORDER: The telephone conference scheduled for 5/11/2022 at 4:00 p.m. is adjourned to 5/11/2022 at 2 p.m. The parties are directed to call (888) 278-0296 and enter the access code 2012636 to join the conference. Ordered by Judge Rachel P. Kovner on 5/6/2022. (Bell, Jason) (Entered: 05/06/2022)
05/11/2022	<u>I</u>	MINUTE ENTRY AND ORDER: A conference was held by telephone on defendant's motion for change of venue before Judge Rachel P. Kovner on 5/11/2022. Rayminh Ngo appeared on behalf of plaintiff. Eleanor Lackman appeared on behalf of defendant. Plaintiff shall file a letter stating whether plaintiff consents to transfer this action to the Southern District of New York by 5/18/2022. In the event that plaintiff does not consent to a transfer, the Court will set a schedule for plaintiff to file an amended complaint. In light of the anticipated transfer or amended complaint, the motion to change venue <u>13</u> is terminated as moot. Ordered by Judge Rachel P. Kovner on 5/11/2022. (Court Reporter: David Roy) (Bell, Jason) (Entered: 05/11/2022)
05/11/2022	<u>I</u>	Motions Terminated: Pursuant to the Minute Entry and Order dated May 11, 2022, the motion for change of venue <u>13</u> is terminated as moot. Ordered by Judge Rachel P. Kovner on 5/11/2022. (Bell, Jason) (Entered: 05/11/2022)
05/18/2022	<u>I 19</u>	

Letter Notice of Consent to Venue Transfer and in Response to Court's Minute Entry/Order of 5-11-22 by Tamara Wareka (Ngo, Rayminh) (Entered: 05/18/2022)

05/19/2022

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ORDER: On plaintiff's consent, this case is transferred to the Southern District of New York for the convenience of the parties and in the interest of justice. *See* 28 U.S.C. § 1404(a). The Clerk of Court is respectfully directed to transfer the case.

Case transferred to District of Southern District of New York. Original file, certified copy of transfer order, and docket sheet sent. **ALL FILINGS ARE TO BE MADE IN THE TRANSFER COURT, DO NOT DOCKET TO THIS CASE.** Ordered by Judge Rachel P. Kovner on 5/19/2022. (Bell, Jason) (Entered: 05/19/2022)